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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,911	12/09/2003	Juraj Babjak	2003_1783A	3302

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EXAMINER

ANDREWS, MELVYN J

ART UNIT	PAPER NUMBER
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1742

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. ~ 10/729,911	Applicant(s) BABJAK ET AL.	
	Examiner Melvyn J. Andrews	Art Unit 1742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: On page 4 lines 15 to 24 the present invention is described as comprising adjusting pH of the solution within the range of **above 2.5 to 6 or lower**. This is confusing since a range is disclosed viz. 2.5 to 6 and the pH may be above the range as well as lower.

Appropriate explanation or correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7 to 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 claims "adjusting a pH of the solution within the range of above 2.5 to 6" this is indefinite because how can the range be above 2.5 to 6 as well as above 2.5 to 6 which is outside the range.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 7 to 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Japanese patent No.2002-241856 in view of Brix (US 2,822,243). The Japanese patent discloses removing manganese from a solution containing manganese and

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cobalt but does not disclose adding sodium hypochlorite to effect precipitation of manganese (see Abstract) but Brix discloses introducing sodium hydroxide and sodium hypochlorite to precipitate manganese oxide, it would have been obvious to one of ordinary skill in the art at the time the invention was made to remove manganese from the Japanese solution by introducing sodium hydroxide and sodium hypochlorite since the Japanese patent discloses that manganese can also be precipitated.

Claims 7 to 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Japanese patent No.JP 357140838A in view of Brix (US 2,822,243). The Japanese patent discloses removing manganese from a solution containing manganese and cobalt but does not disclose adding sodium hypochlorite to effect precipitation of manganese (see Abstract) but Brix discloses introducing sodium hydroxide and sodium hypochlorite to precipitate manganese oxide, it would have been obvious to one of ordinary skill in the art at the time the invention was made to remove manganese from the Japanese solution by introducing sodium hydroxide and sodium hypochlorite since the Japanese patent discloses that manganese can also be precipitated.

Response to Arguments

Applicant's arguments filed May 25, 2005 have been fully considered but they are not persuasive.

The JP 2002-241856 discloses precipitating Mn at a pH which is acidic but does not disclose addition NaOCl but Brix discloses that NaOCl may be used to precipitate Mn but the Examiner does not agree with applicant's opinion that a pH of 7 differs from applicant's claimed pH of "above 2.5 to 6".

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Applicants argue that co-precipitation of Ni and Co may occur but such precipitation is not precluded in the claimed method.

Applicants argument that the instant method decreases the Mn concentration to 0.0013 g/l but this is not claimed.

With respect to JP357140838 and Brix it is noted that optimization of pH is regarded as well within the skill of the art since Brix discloses that adding sodium hypochlorite will precipitate Mn .

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvyn J. Andrews whose telephone number is (571)272-1239. The examiner can normally be reached on 8:00A.M. to 4:30 P.M..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy V. King can be reached on (571)272-1244. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJA
June 25, 2005


MELVYN ANDREWS
PRIMARY EXAMINER